§ 5517-a. Return of association premium. (a) Notwithstanding any inconsistent provision of this chapter or any other law to the contrary, if the superintendent determines, for policies of excess coverage or equivalent excess coverage issued by the association and purchased on behalf of eligible participating physicians and dentists, that the rates established pursuant to subdivision one of section forty of chapter two hundred sixty-six of the laws of nineteen hundred eighty-six, as amended, have produced premium amounts greater than required to satisfy the standard that premiums shall be fixed at the lowest possible rates consistent with the maintenance of solvency and of reasonable reserves and surplus therefor, then the superintendent shall direct the association and all officers and directors of the association with responsibility for custody or investment of the association's assets to return a portion of such premium to the purchaser in an amount not less than the estimated cost of all premiums necessary for the purchase of excess or equivalent excess coverage for eligible participating physicians and dentists for the policy year July first, nineteen hundred ninety-seven to June thirtieth, nineteen hundred ninety-eight, for the policy year July first, nineteen hundred ninety-eight to June thirtieth, nineteen hundred ninety-nine, for the policy year July first, nineteen hundred ninety-nine to June thirtieth, two thousand, and if the superintendent deems it necessary, for the policy year July first, two thousand to June thirtieth, two thousand one, and the cost of administering the hospital excess liability pool for such applicable policy year. Following such determination, the superintendent shall deliver to the association a schedule providing payment in twelve monthly installments for the return of such premium due for the policy year July first, nineteen hundred ninety-seven to June thirtieth, nineteen hundred ninety-eight, no later than September first, nineteen hundred ninety-seven, for the return of such premium due for the policy year July first, nineteen hundred ninety-eight to June thirtieth, nineteen hundred ninety-nine, no later than September first, nineteen hundred ninety-eight, and for the return of such premium due for the policy year July first, nineteen hundred ninety-nine to June thirtieth, two thousand, no later than September first, nineteen hundred ninety-nine and for the policy year July first, two thousand to June thirtieth, two thousand one, no later than September first, two

thousand. Payment to the purchaser for the policy year shall be made prior to the end of the applicable policy year. Upon the association's receipt of notice of such determination and delivery of such schedule, the association and all officers and directors of the association with responsibility for custody or investment of the association's assets are hereby authorized and directed to return the portion of such premium amounts to the purchaser according to such schedule. For policies of excess or equivalent excess coverage provided pursuant to section eighteen of chapter two hundred sixty-six of the laws of nineteen hundred eighty-six, as amended, the hospital excess liability pool created pursuant to subdivision five of section eighteen of such chapter shall be deemed to be the purchaser. The premium levels for excess coverage established by the superintendent shall, for the purpose of determining any projected deficiency as the basis for imposing a surcharge pursuant to subdivision one of section forty of such chapter as amended, be modified to reflect any such return of premium directed by the superintendent.

(b) Notwithstanding any other provision of law, no director, officer or employee of the association, nor the association, nor any public officer or employee, nor any actuary, attorney, or advisor to the association or to the superintendent shall incur or suffer any liability whatsoever to any person by reason of actions taken pursuant to this section. Any action which could have been brought against such director, officer or employee, or against such public officer or employee, or against such actuary, attorney or advisor, or against the association, but for the provisions of this section, shall be brought against the state.